

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION No. 13412 of 2004

Between:

- 1 Saragadam Ramachandra Rao, S/o.Naidu,
R/o.B.C.Colony, Pendurthy, Visakhapatnam Dist.
- 2 Saragadam Venkata Tati Naidu @ Tati Naidu, S/onNaidu,
R/o.B.C.Colony, Pendurthy, Visakhapatnam Dist.

..... PETITIONERS

AND

- 1 The District Collector, Visakhapatnam District.
- 2 The Mandal Revenue Officer, Pendurthy village & Mandal,
Visakhapatnam Dist.
- 3 The Panchayat Secretary, Pendurthy Gram Panchayat, Pendurthy
village, Viskhapatnam district.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of a writ of Mandamus by declaring the action of the respondent No.3 in issuing the impugned Memo No.72/04 dt.19-6-2004 as illegal, arbitrary and violation of Articles 14, 16 and 21 of the Constitution of India and also against the principles of natural justice and consequently direct the respondent Nos.1 and 2 to fix the Market rate in view of the letter dated 8-4-2004 of respondent No.1.

Counsel for the Petitioner : Mr. V.AJAY KUMAR

Counsel for Respondent Nos.1&2 : G.P. FOR REVENUE

Counsel for the Respondent No.3: Mr.D.SRINIVAS

The Court made the following :

ORDER :

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The petitioners claim to have been in possession of 60 sq.yards each in Survey No.277 of Pendurthy village as per the possession certificate issued by the Mandal Revenue Officer, Pendurthy on 25.11.2003. After issuance of such certificate, when the petitioners started construction of house in the land, the Mandal Revenue Officer directed the petitioners to stop the construction and to explain as to why the possession certificate should not be cancelled. Aggrieved by the same, it appears that petitioners have made representation to the Collector and the Collector in turn forwarded the same to the Mandal Revenue Officer by his proceedings dated 8.4.2004 directing the Mandal Revenue Officer to examine the said representation and send a detailed report through the Revenue Divisional Officer for taking further action. In response to the same, the Mandal Revenue Officer is under obligation to send the report. When the petitioners again started construction of the house, the Mandal Revenue Officer directed the Panchayat Secretary of Pendurthy Gram Panchayat to see that petitioners shall not make any further construction as per the orders passed by him earlier. In view of the said directions of the Mandal Revenue Officer, the Panchayat Secretary issued the impugned letter dated 19.6.2004 to the petitioners calling upon as to why action shall not be taken against the petitioners for violation of the orders of the Mandal Revenue Officer, whereunder he directed the petitioners to stop the construction. Questioning the same, the present writ petition is filed.

The learned counsel for petitioners submit that once the Collector seized up the matter, the Mandal Revenue Officer cannot direct eviction of the petitioners from the subject land.

Heard the learned counsel for respondents.

When the Mandal Revenue Officer called upon the petitioners to stop the construction and to explain as to why the possession certificate should not be cancelled, petitioners moved the Collector and the Collector called for a report from the Mandal Revenue Officer. Until the Collector decides the matter, petitioners cannot make further construction on the subject land. In view of the same, there is no

infirmity in the order passed by the Mandal Revenue Officer directing the petitioners to stop the construction or instructing the Panchayat Secretary to take steps to stop further construction on the subject land. Therefore, I do not see any reason to set aside the impugned notice. However, in the interest of justice, the respondents are directed not to dispossess the petitioners from the land in question till the Collector decides the matter. It is also made clear that the petitioners shall not make any further construction until the Collector decides the matter.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

A.GOPAL REDDY, J

Date: 30.7.2004

DA

To

- 1 The District Collector, Visakhapatnam District.
- 2 The Mandal Revenue Officer, Pendurthy village & Mandal,
Visakhapatnam Dist.
- 3 The Panchayat Secretary, Pendurthy Gram Panchayat, Pendurthy
village, Viskhapatnam district.
- 4 Two CCs to the G.P. for Revenue, High Court, Hyderabad (OUT).
- 5 Two CD copies.